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Review

Reviewed Work(s): Origins of Chinese Law. Penal and Administrative Law in its Early Development by Yongping Liu

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is the slightly vague table of contents where one (especially a nonspecialist) is at a loss and cannot decide the basic structure of the book at first glance, which, I think, would be necessary for such an introductory volume. This slight confusion, however, is removed when one starts reading the chapters themselves, and it becomes evident that besides obviously chronological chapters like Han Cosmology and Immortality (pp. 42–58), or Changes in the Ming and Qing (pp. 171–186), other, seemingly thematic parts like Daoism and the State or Monastic Discipline cover certain periods in the history of Daoism when the features mentioned in the titles were more dominant, and that this is the cause the author chose them.

Thus, after presenting the Daodejing, the Zhuangzi (both Warring States period) and the Han concepts in the three chapters of the first part, in part two (4th–6th chapters) L. Kohn proceeds to the Later Han and the Age of Disunity (2nd–6th century). In Communal Organizations (ch. 4) she describes the Great Peace movement and the Celestial Masters, in Self-cultivation Groups (ch. 5) the main features of the Shangqing and Lingbao sects are summarised, and in the Daoism and the State (ch. 6) the role of Kou Qianzhi, Louguan, Buddhist–Taoist debates and the beginning of the Tang dynasty are discussed. The third part (7th–9th chapters) covers the history of Daoism between the Tang and the Yuan dynasties. Ritual and Meditation (ch. 7) treats Tang-dynasty Daoism, Three Cavern system, and the role of Sun Simiao, Sima Chengzhen and Du Guangting. Spell, Talismans and Inner Alchemy (ch. 8) introduces the Song-dynasty developments which focus on talismans (Tianxin) and inner alchemical practices, while Monastic Discipline (ch. 9) discusses the Quanzhen sect in the Yuan dynasty. The fourth part of book (10th–11th chapters) contains two succinct essays on the developments during the Ming and Qing dynasties (ch. 10, 14th–19th century), and the role of Daoism in the modern societies (ch. 11). The book concludes with two appendices (the first on Daoism in other Asian countries, the second including a comparative table of dates in three columns: Chinese history, history of Daoism, and the history of the West) and an index with Chinese characters.

In sum, *Daoism and Chinese Culture* is an excellent, well-balanced and extremely useful summary of the entire history of Daoism by one of the leading experts of the topic, basically intended for nonspecialists, university students of Sinology or anybody interested in the history of religions.

Gábor Kósa

YONGPING LIU: *Origins of Chinese Law. Penal and Administrative Law in its Early Development*. Oxford University Press, Hong Kong, Oxford, New York, 1998, xiv + 360 pp.

Many books have been published by Western scholars on China's legal tradition, however, Liu Yongping's is the first significant work written in a Western language on the earliest development of Chinese law. The work covers the legal history of what the author calls the "period of creativity", that is, the age of the Shang, Zhou, Qin and Han dynasties (c. 16th century BC–220 AD). The legal development of this era formed the basis of the "period of continuity", which lasted from the end of the Han to the late Qing (221–1898). The sources used by the author are the well-known historical and philosophical writings (*Shujing, Zuozhuan, Lunyu, Han Feizi* etc.) and the newly discovered archaeological finds, especially those of Shuihudi and Juyan. What makes the book very original and thought-provoking is that it treats its subject from the viewpoint of social development, and traces back the changes of Chinese law to the transformation of society, not ideology or class-struggle. The careful study of the sources led the author to important conclusions that make quite a few well-established traditional theories untenable.

In Chapter 1 (Society and the development of law in Shang-Zhou China, pp. 19–60) the author gives an outline of Shang and Zhou social structure. In Shang times, Liu states, the

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territory of China was under the control of many different *zu*, or clans, of whom the strongest was the Shang. The basic unit of society was the *zu*, and power was held by the *zu* leaders. As the Shang king could not control all the clan territories – in fact he was again and again forced to rage war against them – it is highly improbable that a unified set of laws of Shang was accepted beyond the boundaries of its core territories. Instead, people followed the customary laws of their own *zu*, and were under the jurisdiction of their *zu* leaders. Even though Liu does not quote any primary source that proves the *zu* leaders' judicial functions – unfortunately we have no sources of Shang legal development that deal with this question –, there are no reasons to refute the validity of this theory. The traditional view was that Chinese law, from the earliest times, originated from one source (e.g. sage kings like Yao) and has always been unified. If we accept that in Shang times all the *zu* had their own customary laws, then this ancient theory becomes unfounded.

After the Zhou had conquered Shang, a new administrative system, "feudalism" was adopted. The dynastic change brought great population movements, and at some places members of different *zu*s were forced to live together. This led to conflict between different customary laws, Liu holds, which is reflected in some chapters of the *Shujing*. These chapters (*Kang Gao* and *Jiu Gao*) are usually believed to be authentic, and it seems probable that there were indeed conflicts between the different systems of norms. However, no inscription of the early Zhou is quoted to verify this theory. According to Liu, the most important change in ancient Chinese society was the disintegration of the *zu* and the emergence of a new social structure in which the individual family was the basic unit. This process went on from the late Western Zhou to the unification of the empire by Qin, and as a result, a new power structure appeared, together with written laws. This was the social background of the process in which unified laws proclaimed by the sovereign took the place of the customary laws of the different clans.

In Chapter 2 (*Li* [I]: The development and evolution of *li* under the *Zongfa*-feudal system of the Zhou, pp. 61–86) Liu analyses the concept of *li* ('rites') in pre-Confucian times. The main point of the chapter is that before the concluding days of the Spring and Autumn period "the *li* of Zhou formed a series of rites designed to maintain and adjust the relationships of the nobles as defined by the feudal structure of the Zhou ... The *li* were detailed and rigid". In other words, the *li* of this era was not yet a set of general norms applying to everybody, only a set of prescribed rituals, which were to be performed by nobles at sacrifices, funerals, marriages and other occasions. However, by the end of the Spring and Autumn period, the feudal system of Zhou disintegrated, together with the old *li*. According to Chapter 3 (*Li* [II]: Confucius and the theory of "natural *li*", pp. 87–110) at this time Confucius developed his concept of "natural *li*", a system of norms based on the Confucian virtues, which applied to everybody. The author bases his argument solely on the Analects, and no attempt is made to examine the formation, the different layers and lines of thought of that text. It may have been more fortunate to attribute the new idea of *li* to the school or lines of disciples who compiled the Analects, and not to the semi-legendary figure of Confucius. However, it is undeniable that the new concept of Confucian *li* exerted great influence after Confucius' time, especially during the imperial era.

In Chapter 4 (The origin and early development of punishment [x*ing*], pp. 111–146) the author examines the meaning and development of the term *xing* 'punishment'. The chapter begins with the study of the characters *xing* and *zui* 'crime'. Of the latter a very interesting theory is put forward: the radical *xin* in *zui* might mean the 'totem pole' of a *zu*, so the character *zui* originally symbolised "the situation where a member violated the customs or customary laws of his *zu*, and would be given a scolding by members of his own *zu* under the totem pole of his *zu*". Of the penal system of Shang the author observes that contrary to the traditional view the *yue* 'leg-cutting' and death penalty

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was probably applied to war captives, not to members of the Shang *zu*. To the latter special punishments were applied, of which we know almost nothing except for the names of a few of them. Concerning the Western Zhou, the author comes to important new conclusions. First of all, it is proved that Zhou law was not unified, and different laws were applied to members of the Zhou and other *zu*s. Second, the examination of bronze inscriptions reveals that the punishments imposed on nobles and men of rank were not the so-called *wuxing* 'five punishments', instead, another set of penalties were used. Finally, it is speculated that the feudal lords had authority to impose punishments on commoners living in their fiefs.

In the Spring and Autumn period, of which we have much more evidence, China still had no unified law, and in the different states a dual judicial authority of state officials and *zu* heads coexisted. This was in part because the members of great families held important official posts, so it was "difficult to distinguish their exercising the power of punishment as state officials, from their action as the *zu* heads". Concerning the question whether great officers were subject to punishments, Liu comes to the conclusion that although corporal punishments were rarely applied to men of rank, a different set of punishments could be imposed on them (e.g. banishment, seizure, extermination of their clan etc.).

Chapter 5 (A study of the covenant [*meng*], pp. 147–172) deals with a special Chinese institution of antiquity. The *meng*, the author believes, was an important legal instrument that had exerted great influence on the early development of Chinese law. The origin of the covenant was probably a military alliance between two *zu*s, later it became a contract or pact between states or nobles. In the Spring and Autumn period the *meng* was utilised with extraordinary frequency, and beside the *Zuozhuan*, we have archaeological evidence – the Houma and Wenxian tablets bearing the texts of covenants – from which Liu reconstructs the procedures of the *meng*. However, the *meng* was only a temporary institution "to bind the populace together", and was "employed as a legal fiction to create various new rules". After the Spring and Autumn period the *meng* was replaced by more former and rigorous legal instruments, but its form – and the very fact that a binding document was written and made known to the public – contributed greatly to the development of written law codes.

In Chapter 6 (*Fa* [I]: The Legalist theories of law – an analysis of Shang Yang and Han Fei thought, pp. 173–200) the author examines the theories of the Legalist school which supposedly had an important role in the formation of the laws of Qin. The most important tenets of the school are listed on the origin and nature of law, the state apparatus needed to enforce the law, and the "two handles" which the ruler should employ to induce society to turn to agriculture and war. The argument, which is based on the *Shangjun shu*, the *Han Feizi*, and the *Shiji*, mainly follows the traditional interpretation of Legalism. Unfortunately, I believe, the texts in question are not treated with enough criticism: the biography of Shang Yang in the *Shiji* is obviously full of legendary elements and is highly unreliable, the *Shangjun shu* is a compilation which might only partially reflect the thought of Shang Yang, and Han Fei went to Qin too late to exert significant influence on the laws of that state. An important question is not raised: was it the legal system of Qin that evolved as a result of Legalist influence, or was it the Legalist school which came to being as the justification of an already existing system? An attempt to answer this question could help to make a deeper analysis of the development of the laws of the Chinese states in the late Eastern Zhou era.

Chapter 7 (*Fa* [II]: Law of the Qin Dynasty [Qin lü], pp. 201–251) deals with the legal texts discovered in 1975 at Shuihudi, Yunmeng county. This chapter is one of the first works in a Western language that approach the Shuihudi texts from a legal point of view and puts them in an historical context. The author makes very important new observations on the laws of Qin, and discusses some principles and regulations of Qin law that were not examined in full depth

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before (e.g. the working of the mutual responsibility system [wu], the prefecture [xian] system, the differentiation between administrative errors and crimes, the question of "family crimes" etc.). At the end of the chapter the contents of the Shuihudi documents are compared to the Legalist theories. Some contradictions are discovered and convincingly explained, but it is also noted that "there is little doubt that the ideas of Shang Yang and Han Fei at least exerted strong influence" on certain aspects of Qin law. As mentioned before, we know little of Shang Yang's theories, and Han Fei, who lived in another state at the time when the Shuihudi articles were probably compiled (and only spent a short time in Qin before his death) could not possibly exert great influence on Qin legislation. It is clear that the line of thought which is revealed in the *Shangjun shu* and the *Han Feizi*, is very close to the fundamental concepts behind the laws of Qin, however, we cannot say that the ideas of Shang Yang and Han Fei have directly influenced them.

In Chapter 8 (A preliminary study of Han law, pp. 252–317) the author discusses some questions of Han law which have not been studied or were misinterpreted before, basing his argument on the *Shiji, Hanshu, Hou Hanshu* and some newly discovered Han legal texts. A new theory is put forward of the formation of early Han law, and some generally accepted ideas are refuted, e.g. Liu proves that contrary to traditional view the early Han code was not the "Statutes in Nine Sections" (*Jiuzhang lü*), and that Xiao He might not have been the only person who created the laws of the first Han rulers. Instead, it is argued that Han law was a direct continuation of Qin law, it was compiled by numerous high officials of early Han (e.g. Xiao He, Shusun Tong, Zhang Cang), and it had never formed a systematically unified code. After discussing the origins of Han law, the author examines some crucial legal terms of Han times, such as *ke* (tariffs), *zuo* (to arrest, detain, and to convict somebody) and *dang*. Of the latter, Liu states that *dang* was a special legal term which meant "to specially calculate a punishment" for a person who committed a crime for which there were no standard tariffs in the Han corpus of laws. I believe this theory is not completely attested in the sources: the fact that *dang* in the Shuihudi articles on criminal law usually refers to complicated cases might stem from the very nature of those documents, as they exclusively dealt with non-standard cases; and in the historical works of the Han, the legal suits mentioned are also all special cases, usually involving high officials, whichh made exceptional consideration necessary. So the usage of *dang* in these texts does not prove that it meant 'special calculation', and the term might as well meant 'should' or 'ought', as the compilers of the first editions of the Shuihudi texts suggested.

In the remaining sections of the chapter some selected topics are examined, such as the emperor's supreme powers of punishment and the penal reforms of the Former Han. The most important remark on Han law is found in the Conclusion (pp. 318–338). Here the author convincingly argues that the so-called "Confucianization of Chinese law" has been overemphasised by many scholars. Most features of traditional Chinese law which were said to be "Confucian", in fact existed in pre-Han times, or were identifiable in Legalist writings and in the Qin laws as well.

Dr Liu Yongping's book is a very important work which will be read and debated for a long time. It convincingly refutes many well-established theories on ancient Chinese law, and puts forward new concepts, some of which will form the basis of all later research done on the subject. I believe that not only scholars of traditional Chinese law, but also those of ancient Chinese society and thought will greatly profit from reading it. Two final remarks have to be made. First, from Chapter 6 on, the book deals mainly with the legal theory and development of Qin and Han, and no mention is made of the laws of other states, in spite of the fact that some late Warring States' legal materials of other areas have also been discovered recently (e.g. the Chu bamboo strips of Baoshan). The early Han documents of Zhangjiashan are referred to, but not analysed in depth, even

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though some of them have already been published long before Dr Liu's work. The examination of these documents would have made the book even more thorough. Second, though some of the characters of the Chinese terms are given in brackets in the text, many of them are missing. A glossary of Chinese characters at the end of the volume would contribute greatly to the value of the book for experts in Chinese studies.

Gergely Salát

DMITRIYEVA, JUDIT: *Čuvašskie narodnye nazvanija dikorastuščix rastenii*, Studies in Linguistics of the Volga Region, University of Debrecen, Volume I, 2000. Ed. Klára Agyagási, Debrecen, 2001, 211 pp.

Das hier zu besprechende Buch ist die erste Publikation der Reihe *Studies in Linguistics of the Volga Region*. Die Reihe ist ein Ergebnis der Kooperation zwischen Faculty of Humanities of the University of Debrecen (Hungary) und Chuvash State Institute of the Human Sciences (Tscheboksary, Russische Föderation). Die Herausgeberin der Reihe ist Klára Agyagási von der Universität Kossuth Lajos, eine der bedeutenden zeitgenössischen Experten des Tschuwasischen. In einem Teil des hier zu besprechenden Buches stellt András Róna-Tas die neue Reihe vor. Unter dem Titel „The Volga Region as an Ethno-Linguistic Area" lesen wir, daß die neue Reihe für Sprachwissenschaftler, Historiker und Kulturanthropologen Materialien bereitstellen möchte und Studien zur Folklore von in der Volgaregion gesprochenen Sprachen und Dialekten herauszugeben beabsichtigt.

Die Reihe startet mit dem Buch *Čuvašskie narodnye nazvanija dikorastuščix rastenii* (Lexicon der tschuwasischen Wildpflanzennamen), zusammengestellt von Judit Szalontai-Dmitriyeva. Es ist zuglich eine erweiterte Fassung ihrer Dissertation.

Das Buch besteht aus sechs Kapiteln. Das erste Kapitel enthält die Namen von Bäume und Buschpflanzen. Zuerst werden Namen türkischen Ursprung vorgestellt, dann folgen aus dem allgemein türkischen, finnougrischen und indoeuropeischen Sprachen entlehnte Pflanzennamen. Zum Schluß werden in diesem Kapitel Namen unbekannten Ursprungs zusammengetragen, wobei sie danach unterteilt worden sind, ob sie aus einem Teil oder aus zwei Teilen bestehen.

Das zweite Kapitel ist zum Pflanzen und Obstpflanzennamen gewidmet. Auch hier werden zunächst Namen türkischen Ursprungs eingeführt. Dies folgen gemeintürkische, russische, marische, udmurdische, mordvinische und persische (über das Tatarische) und zum Schluss mongolische Entlehnungen.

Pilznamen wurden in einem separaten Kapitel behandelt. Nach allgemeinen Angaben zum zum Thema werden ein vollständige Liste der Pilznamen zusammengetragen und einige Ergebnisse ihrer Untersuchung vorgestellt.

Im vierten Kapitel faßt sie die Ergebnisse zusammen, aus durch das Studium der vorgestellten Material heraus kommt.

Folgende zwei Kapitel bestehen aus zwei Listen. Die erste Liste enthält tschuwaschische Pflanzennamen und ihre Entsprechungen im Russischen und Latein. In der darauffolgenden Liste sind dagegen die Einträge nach dem Latein eingeordnet, wobei die Entsprechungen im Tschuwaschischen und im Russischen zu finden sind.

Dmitriyevas Untersuchung bildet ein klares Beispiel dafür, daß durch die gründliche Auswertung der sprachlichen Materials über die Art, die Richtung, die Geschichte und die Verbreitungsgebiet der sprachlichen sowie kulturellen Kontakte wichtige Hinweise gewonnen werden können.

Ein interessantes Ergebnis der Studie ist, daß aus einem Teil bestehenden Pflanzennamen u. a. zugleich die ältesten Pflanzennamen sind und etliche von ihnen sich auch mit gewissen phonetischen Veränderungen in Mongolischen, Ungarischen und Osetin finden; z.B. *pultăran, xupax, pĕrlĕxen* etc.

Aus dem Studie geht hervor, daß vor allem Russische und Finnougrische auf das tschuwa-

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